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## REMARKS

### I. Status of the Application

Claims 1-4, 11, 19, 21-22, and 24-38, were pending. With this amendment, Applicant has amended claims 4, 11, 19, 21-22, 26-29, 31-32, and 36-38, and cancelled claims 1-3 and 24-25. The amendments to the claims are supported by the application. Accordingly, entry of the amendments is respectfully requested.

Applicant has amended the claims to recite particular embodiments that Applicant, in his business judgment, has determined to be commercially desirable at this time. The claim amendments have not been submitted for any reason relating to patentability. Indeed, Applicant contends that the Examiner has not established a prima facie showing to support the Examiner's rejections and, as such, Applicant reserves the right to pursue the subject matter in one or more continuing applications.

### II. Summary of Examiner Interview

Applicant thanks the Examiner for the courtesy extended in the telephone interview that took place on January 14, 2010. In that interview the Examiner indicated to Applicant that her main concern was the rejections under 35 USC 112. The Examiner further suggested reducing the number of independent claims and following up with her to discuss the rejections for the remaining claims. An agreement as to patentability was not reached.

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III. Claim Objections

In the Office Action, the Examiner objects to claims 11 and 25. Claims 11 and 25 have herewith been amended and cancelled, respectively. With regard to claim 11, the term "physical output" that the Examiner objected to does not appear in the current form of claim 11. Accordingly, applicants request reconsideration and withdrawal of the objections.

III. Claim Rejections

A. 35 USC §112

The Examiner rejects claim 25 under 35 USC § 112, first paragraph. Applicants have herewith cancelled claim 25. This rejection is therefore rendered moot.

The Examiner further rejects claims 1-38 under 35 USC § 112, second paragraph. Specifically, the Examiner rejects claims 1-4, 25, and 33.

Applicants have herewith cancelled claims 1-3 and 25. The rejection of these claims is therefore rendered moot.

With regard to claim 4, applicants have amended the claim to correct the lack of antecedent basis for the term "the input information" and have cancelled the term "or other forms of energy or information". With regard to claim 33, the terms "sister" has been replaced with the term "similar types of devices".

Applicants submit that claims 4 and 33, in their present form, satisfy the requirement of definiteness pursuant to 35 USC § 112. Accordingly, reconsideration and withdrawal of these rejections is respectfully requested.

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B. 35 USC §102

The Examiner rejects claims 1-4 and 25 under 35 USC §102(e) as being anticipated by 6,744,370 (hereinafter Sleichter). The Examiner's rejections are respectfully traversed.

Claims 1-3 and 25 have been cancelled. Accordingly, the rejection of these claims is rendered moot.

Claim 4, as amended recites "at least one transducer, the apparatus therewith receives an input from a user and produces from the input at least an input signal ... , and an output component, the apparatus therewith displays at least one stimuli to the user, at least in response to the user's input." Claim 4 later recites that the apparatus is "a mobile communication terminal with the components of the apparatus integrated into the mobile communication terminal." Applicant submits that the references of record fail to disclose at least these features of claim 4.

The Examiner asserts that "the structures are met by Sleichter, it is presumed to be inherently capable of the claimed functions." The Examiner is mistaken.

As noted in Applicant's previous reply, the Examiner has the initial burden of presenting a *prima facie* showing of anticipation. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). If the examiner fails to make a *prima facie* showing, the rejection is improper and will be overturned. *In re Rijckaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1993); *Novamedix Distrib. Ltd. v. Dickinson*, 175 F. Supp. 2d 8, 9 (D.D.C. 2001). To make a *prima facie* showing that a claim is anticipated the examiner must show that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.

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Cir. 1987). Moreover, "the identical invention must be shown in as complete detail as is contained in the ... claim." MPEP 2131 citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

In this instance, the Examiner is presuming that Sleichter inherently can perform the claimed functions. The Examiner is misapplying the law on inherency. Inherency requires that extrinsic evidence makes it clear that the missing descriptive matter is necessarily present in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999). Probabilities or possibilities do not establish inherency. The mere fact that a certain thing may result from a given set of circumstances is not sufficient to show inherency. *Scaltech Inc. v. Retec / Tetra LLC*, 178 F.3d 1378, 1384, 51 U.S.P.Q.2D 1055 (Fed. Cir. 1999).

In response to Applicant's arguments, the Examiner states that "a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed invention from the prior apparatus". Applicant disagrees. The claims do not include any "intended uses". Rather, the claims recite distinct components that the apparatus uses to perform the stated functions.

Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

**B. 35 USC § 103**

The Examiner rejected claims 1-4, 11, 19, 21-22, and 24-35 under 35 U.S.C. 103(a) as being unpatentable over 5,746,602 (hereinafter Kikinis) in view of 5,984,880 (hereinafter Lander). The Examiner's rejections are respectfully traversed.

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1. Claims 4

Claim 4 as amended is directed to an apparatus that includes “at least one transducer, the apparatus therewith receives an input from a user and produces from the input at least an input signal ... , and an output component, the apparatus therewith displays at least one stimuli to the user, at least in response to the user’s input.” Claim 4 later recites that the apparatus is “a mobile communication terminal with the components of the apparatus integrated into the mobile communication terminal.”

Applicant submits that neither of the references cited by the Examiner disclose or otherwise suggest these features. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

2. Dependent Claims

The dependent claims are allowable for the same reasons as the claims from which they depend. Applicant submits that the dependent claims are patentable for additional reasons. While deemed unnecessary to argue these additional reasons at this time, given the arguments presented above, Applicant reserves the right to present such argument, including the interpretation of any terms of the claims, should it become necessary or desirable to do so.

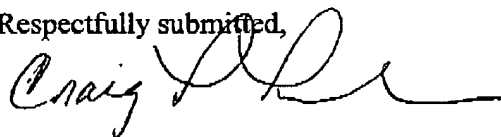
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IV. Conclusion

For the above reasons, Applicant requests the Examiner find the pending claims now patentable over the references cited by the Examiner. Accordingly, reconsideration and allowance of the pending claims are respectfully solicited.

The Examiner is invited to contact the Applicant's mobile phone at (619) 301-3555 or his work phone (619) 390-6304 or use his work fax number (619) 390-6344 or his email [rtt.craig@yahoo.com](mailto:rtt.craig@yahoo.com) to expedite prosecution.

Respectfully submitted,



Craig L. Linden


Date JAN. 28, 2010

CERTIFICATE OF TRANSMISSION BY FACSIMILE

Sir:

The undersigned hereby certifies that the Applicant filed this 13 page transmission, including this page, the Reply, and Amended Claims, via Facsimile to the USPTO fax number (571) 273-8300.

Dated: January 28, 2010



Craig L. Linden